

EXECUTIVE OFFICE,

AUSTIN, February 20, 1874.¹²

To the Honorable House of Representatives of the State of Texas:

I return without my approval and respectfully ask your reconsideration of House bill No. 58, being "An act validating the authentication and registration of certain instruments of writing." I could see no objection to the bill if its operation were simply to validate, from the date of its passage, acknowledgements of instruments taken heretofore before officers, which laws then in force did not recognize as proper authority for that purpose but who, under existing laws, are authorized to take such acknowledgments. Nor would any objection exist to making the registration of such instruments valid from the date of the passage of the act. But in its present shape the bill is retroactive, and may in its operation work injustice. Section fourteen, article one, of the Constitution expressly forbids the enactment of a retroactive law. This bill, if it should become a law, would enable a party, for instance, to avail himself of the defense of the statute of limitations under a deed "duly recorded" in an action against him for land, and thus defeat the title of the true owner who, perhaps, permitted him to remain in possession five years, knowing that under *existing law* the deed not being "duly recorded" was not such a paper title as the statute would run on. Again, under existing law a deed or mortgage not "duly recorded" is not constructive notice to subsequent purchasers, or incumbrancers, for value.

This bill would, if a law, affect these with notice, and postpone their claims, or subordinate them to claims which, before its passage, had no standing in court against them.

Rights, as against unrecorded deeds, or mortgages not "duly recorded," acquired in good faith for value, under existing laws, come fully within the definition of what are known as "vested rights." Numerous instances can readily be imagined as of frequent occurrence in which such rights, if this bill were enforced as law, would be divested.

Other illustrations could be given of the unjust operation of the proposed law, but these are sufficient to show that it comes fully within the constitutional prohibition upon the passage of retroactive laws.

Respectfully,

RICHARD COKE.

¹²*House Journal*, 121.